



**CONTAINS CONFIDENTIAL BUSINESS INFORMATION NOT SUBJECT TO
DISCLOSURE UNDER FOIA**

August 18, 2021

By Electronic Mail

Thomas Carroll
Acting Director
Air Enforcement Division
Office of Civil Enforcement
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Mail Code: 2201A
Washington, DC 20460

Re: Hickok – Notification of Force Majeure Event

Dear Mr. Carroll:

Birla Carbon USA, Inc. (“Birla” or the “Company”) submits this letter pursuant to Paragraphs 72 and 73 of the June 11, 2018, Consent Decree between the United States of America, the Louisiana Department of Environmental Quality (“LDEQ”), the Kansas Department of Health and Environment (“KDHE”), and Columbian Chemicals Company. Consent Decree, *United States et al. v. Columbian Chem. Co.*, No. 6:17-cv-01661-RGJ-CBW (W.D. La. June 11, 2018). This letter provides written notice of a force majeure event and anticipated noncompliance with obligations under the Consent Decree as a result of equipment failure related to the NOx Continuous Emission Monitoring System (“CEMS”) at Birla’s Hickok facility (“Hickok”).

Please note that this letter and certain attachments to this letter include confidential business information (“CBI”) and are marked as such. Documents marked for CBI are entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B, and are not subject to disclosure under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. We ask that KDHE similarly treat this as CBI under their analogous state laws.

On August 15, 2021, Hickok experienced an unanticipated equipment failure that caused the CEMS to stop functioning properly. In responding to the alarms raised by the CEMS failure, Hickok’s onsite I&E Technician, with guidance from the equipment supplier, worked on several components to resolve the issue; however, the problem is currently unresolved. Being unable to resolve the issue with onsite staff,


the supplier indicated that it would be one to two weeks to get one of their technicians to visit the site to work on the unit. Alternatively, the supplier recommended shipping the NOx analyzer back their facility for evaluation and repair. To ensure the fastest possible evaluation and repair of the NOx analyzer, on guidance from the supplier, Birla sent its NOx analyzer to the equipment supplier via FedEx on August 16, 2021. *See Confidential Attachment 1.* It remains unclear at this time when the NOx analyzer will be repaired and returned. Birla notes that another NOx analyzer cannot be used as each analyzer is specific to the equipment.

As a result of this CEMS equipment failure, Birla will not have an operable stack CEMS as required by Paragraph 29 of the Consent Decree. Birla also anticipates possible delays in meeting NOx emission limits and NOx monitoring requirements under Paragraphs 23, 29, and 30 of the Consent Decree.

Birla notes that there is no applicable NOx emission limits at this time as Birla is doing testing and set under Paragraph 26 Option B of the Consent Decree. Birla notes that the emission control equipment (low-NOx combustion system,) continues to operate at a steady state, and Birla has no reason to believe there would be a changes causing excessive NOx emissions.

We will update you with more details as they become available. Please contact David Buente at 202-255-8684 or dbuente@sidley.com if you have any questions in the meantime.

Sincerely,



Randy Waskul
Global Director, Health, Safety & Environmental

CC: Kellie Ortega, U.S. EPA (by email)
Patrick Foley, U.S. EPA (by email)
Chris Williams, U.S. EPA (by email)
Carlos Evans, U.S. EPA Region 6 (by email)
Emad Shahin, U.S. EPA Region 6 (by email)
Lisa Gotto, U.S. EPA Region 7 (by email)
Lisa Hanlon, U.S. EPA Region 7 (by email)
Amy Algoe-Eakin, U.S. EPA Region 7 (by email)
Alex Chen, U.S. EPA Region 7 (by email)
Thomas Mariani, U.S. DOJ (by email)
Eli Quinn, U.S. DOJ (by email)
Connie Ellis, KDHE (by email)
Kate Gleeson, KDHE (by email)
David Buente, Sidley Austin LLP (by email)

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Peter Whitfield, Sidley Austin LLP (by email)

Enclosures: Confidential Attachment 1 - 2021 - 08 - 16 - Hickok - Email Correspondence regarding
NOx Analyzer Shipment to Supplier

CONFIDENTIAL ATTACHMENT 1

2021-08-16 - Hickok -
Email Correspondence regarding NOx Analyzer
Shipment to Supplier

Braddock, Allen S.

From: Waskul, Randy <Randy.Waskul@adityabirla.com>
Sent: Tuesday, August 17, 2021 1:05 PM
To: Braddock, Allen S.
Subject: FW: Overnight

FYI

With Kindest Regards,

Randy

Randy Waskul

Global Director Health, Safety and Environment



Birla Carbon

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From: McGaughey, Mark <Mark.McGaughey@adityabirla.com>

Sent: Monday, August 16, 2021 5:23 PM

To: [REDACTED]; [REDACTED]

Cc: Waskul, Randy <Randy.Waskul@adityabirla.com>; Figueroa, Erik <Erik.Figueroa@adityabirla.com>; Burnum, Douglas <Douglas.Burnum@adityabirla.com>

Subject: Overnight

Hello [REDACTED],

We overnighted the whole Nox analyzer to your attention.

Can you please put a priority on this as we do not have a Nox reading on our stack that is required by EPA?

UPS tracking # 1Z 626 7YV 01 6146 4606

Regards,
Mark

Mark McGaughey
General Manager
Hickok Plant, Birla Carbon USA, Inc.



Birla Carbon

T: 620-356-6315 / 620-353-9791 | **W:** www.birlacarbon.com

F: 620-356-2766 | **E:** mark.mcgaughey@adityabirla.com

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